

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANDRE LAMAR HENDERSON, <i>et al.</i>,	:	CIVIL ACTION NO. 1:18-CV-1371
	:	
Plaintiffs	:	(Chief Judge Conner)
	:	
v.	:	
	:	
JOSEPH ADAMS, <i>et al.</i>,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 22nd day of August, 2019, upon consideration of the report (Doc. 73) of Chief Magistrate Judge Susan E. Schwab, issued following review of the *pro se* plaintiffs' complaint (Doc. 1) pursuant to 28 U.S.C. § 1915A(b), in which Judge Schwab recommends that the instant complaint, filed by a group of 18 *pro se* plaintiffs against various judges, prosecutors, and public defenders, be dismissed, and wherein Judge Schwab specifically opines that (1) plaintiffs' claims against the judicial defendants and the prosecutor defendants are barred by the respective doctrines of absolute judicial immunity and absolute prosecutorial immunity, (2) plaintiffs' claims against the public-defender defendants fail because public defenders are not state actors for purposes of Section 1983 claims and plaintiffs have not sufficiently alleged that the public-defender defendants conspired with state actors for purposes of Section 1983 liability, and (3) plaintiffs should be granted leave to amend to the extent they are able to state facts supporting their allegations of conspiracy, (see Doc. 73 at 7-18), and it appearing that plaintiffs have

not objected to the report,¹ see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge's conclusions "may result in forfeiture of *de novo* review at the district court level," Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should afford "reasoned consideration" to the uncontested portions of the report, E.E.O.C. v. City of Long Branch, 866 F.3d 93, 100 (3d Cir. 2017) (quoting Henderson, 812 F.2d at 879), in order to "satisfy itself that there is no clear error on the face of the record," FED. R. CIV. P. 72(b), advisory committee notes, and, following independent review of the record, the court being in agreement with Judge Schwab's recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 73) of Chief Magistrate Judge Schwab is ADOPTED.
2. Plaintiffs' complaint (Doc. 1) is DISMISSED with prejudice as to the judicial defendants and the prosecutor defendants and DISMISSED without prejudice as to the public-defender defendants.
3. Plaintiffs are granted leave to amend their pleading as to the public-defender defendants only within 20 days of the date of this order.

¹ One plaintiff, Andre Henderson ("Henderson"), responded to the report with two "motion[s] to discharge pursuant to 28 U.S.C. § 3206 and 3001," (Docs. 76, 77), and a "motion pursuant to 28 U.S.C. § 2044," (Doc. 79). These motions cannot fairly be construed as objections, and none of the statutory sections invoked by Henderson in these "motions" have any relevance or application to the instant matter. Accordingly, all three motions will be denied.

4. Any amended pleading filed pursuant to paragraph 3 shall be filed to the same docket number as the instant action, shall be entitled "First Amended Complaint," and shall be complete in all respects. It shall be a new pleading which stands by itself as an adequate complaint under the Federal Rules of Civil Procedure, without reference to the complaint (Doc. 1) hereinabove dismissed.
5. In the absence of a timely-filed amended complaint, the Clerk of Court shall close the above-captioned action. In the event a timely amended complaint is filed, this matter shall be remanded to Judge Schwab for further proceedings.
6. Henderson's motions (Docs. 76, 77, 79) are DENIED.
7. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania